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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,517	12/05/2003	Garrett J. Young	245233US25	7825

22850 7590 02/13/2006

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
PHILOGENE, HAISSA	

ART UNIT	PAPER NUMBER
2828	

DATE MAILED: 02/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/727,517	YOUNG, GARRETT J.	
	Examiner	Art Unit	
	Haissa Philogene	2828	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 December 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,8-12 and 18-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,8-12 and 18-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *05 December 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 12 is objected to because of the following informalities: In line 3, change "controller" to –means for supplying--. Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 2, 8-12 and 18-20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 5-12 and 15-20 of copending Application No. 11/235,263. Although the conflicting claims are not identical, they are not patentably distinct from each other because as per claims 1,2, 8 and 10 of the instant application versus claims 1, 2, 5-8 and 10 of application "263, as per claim 9 of the instant application versus claims 1, 2, 5, 6 and 9 of application '263, and as per claims 11, 12 and 18-20 of the instant application versus

claims 11, 12 and 15-20 of application '263, Applicant is claiming the same invention as that of application '263 except for an amplitude modulation control (in application '263) performed by a controller which also performs a frequency modulation control similar to the instant application. Therefore, the amplitude modulation control performed by the controller can be said to have been obviously implied by equivalent language in the claims of the application, since a controller can be used to perform both frequency and amplitude modulation control to control the intensity of at least a color source.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 8,10-12, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kemper, Patent No. 6,956,337, in view of Archenhold et al., Patent No. 6,963,175.

As per claims 1, 2,10-12 and 20, Kemper discloses in Fig.1 a dynamic color mixing device comprising:(a) at least one LED unit (160) each including: (a1) a first LED (164A) of a first color (red); (a2) a second LED (164B) of a second color (green); and a third LED (164C) of a third color (blue);

(b) a controller (140) configured to supply respective driving signals (142A, 142B, 142C) to each of said first LED, second LED and third LED individually, said respective driving signals îndividually controlling relative intensity outputs of said respective first LED, second LED and third LED, wherein said controller (140) individually frequency modulates the respeçtive driving signals supplied to each of said first LED, said second LED and third LED to individually control their relative intensity outputs (see Col.6, lines 3-11 and 19-26),

(c) a temperature sensor (110) configured to sense a temperature at at least a portion of said at least one LED unit (160)(see Fig.1), and

wherein said controller (140) via A/D converter (130) further monitors the sensed temperature of said at least one LED unit (see Col.5, lines 31-35) and integrates a current via buffers (150) (see Col.5, lines 36-39, 46-48 and 54-55) supplied to said at least one LED unit (160). Kemper does not disclose the controller controlling the frequency modulation based on the monitored temperature and integrated current. Archenhold disclose in Figs. 1-3 a dynamic color mixing device having a controller (2) controlling the frequency of a pulse amplitude modulation control signal (16 in Fig.5) or the frequency of the pulse modulator clock signal (10) (see also Col.3, lines 11-13 and Col.5, lines 51-54) based on a monitored temperature provided by temperature sensor (3) and integrated current provided by load current feedback sensor (7). It would have been obvious to a person having ordinary skill in the art at the time the invention was made to employ the controller as taught by Archenhold into the Kemper type device, because it would allow a current control of the light source in response to the monitored

condition, thereby providing an illumination control with temperature compensation to maintain light output and increase operating lifetime over a wide range of the operating temperatures.

As per claims 8 and 18, Kemper in view of Archenhold discloses the claimed invention substantially as explained above. Further, Archenhold discloses the controller (2) capable of controlling said temperature sensor (3) based on the monitored temperature by temperature sensor (3) and integrated current provided by load current feedback sensor (7) (see Fig.3 and Col.8, lines 53-54).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lys et al., Patent No. 6,166,496.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haissa Philogene whose telephone number is (571) 272-1827. The examiner can normally be reached on 8:30 A.M.-6:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MinSun Harvey can be reached on (571)272-1835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

hp

Haissa Philogene
Primary Examiner
A.U. 2821